

## **REMARKS**

The Listing of Claims provided above includes a status identifier for each claim.

Applicants acknowledge and thank the Examiner for the withdrawal of the previous rejections under 35 U.S.C. §112, first and second paragraph, and 35 U.S.C. §102 (b).

Applicants respectfully request entry of the amendment and reconsideration of the claims. Claims 42-45, 47-49, 51-53, 56, 57 and 61-63 have been amended to place the claims in condition for allowance. Claim 60 has been cancelled without prejudice. After entry of the amendment, claims 42-59 and 61-63 will be pending and 1-15 and 36-41 withdrawn..

Applicants submit the amendments of claims 42 and 43 is supported throughout the specification, including for example in paragraphs [0021], [0022], [0035], [0041], [0073], and [0078], and Figure 1, and, thus, does not raise any issues of new matter. For example, the term "one or more types" is supported at least in paragraphs [0012], [0018], and [0028]. The term "feces-derived [bacteria] sample " is supported at least in paragraphs [0011], [0017], [0024], and [0035]. Support for the term "a second bacteria sample obtained in same manner from an additional fecal sample from said subject" is supported at least in paragraphs [0013] and [0019], the Examples, particularly paragraphs [0065], [0066], [0068], [0069], and [0070], and in paragraph [0035], which discloses "determining for each of said microorganisms its relative fraction from the total count of microorganisms in said sample or in a corresponding sample (i.e. a second sample from the same subject, being treated in the same manner as the tested sample) (step 16)", and the corresponding Figure 1.

Please note that all paragraph references are to the published U.S. version of the application, U'S 20050209313 A1.

### **Claim Objection**

Claim. 57 was objected to. A typographical error was corrected and the claim now recites "*Enterococcus* sp." Withdrawal of the objection is respectfully requested.

Claim 45 was rejected for reciting alternative limitations which are improperly expressed. For the purpose of clarity, the claim has been amended to recite "selected from the group consisting of E. Coli, Streptococcus Bois, and Enterococcus sp. or a mixture thereof".

Claim 56 was rejected for reciting alternative limitations which, are improperly expressed. For the purpose of clarity, the claim has been amended to recite "selected from group consisting of Staphylococcus. Enterococcus, Streptococcus, arid Lactococcus. "

A typographical error in claim 62 was corrected., and the claim now recites the "diagnostic sample" rather than a "mixture".

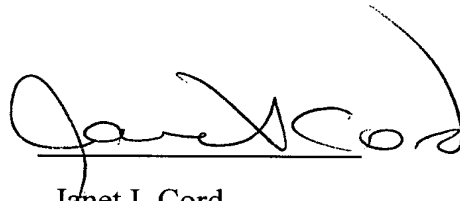
Other amendments to claims 61-63 were made solely for the purpose of a clarity and to advance prosecution.

In addition, for the purpose of clarity the typographical error was corrected in claim 51.

In view of the amendments to the claims, Applicants respectfully submit that the rejection has been overcome. The claims as amended fully comply with 35 U.S.C. § 1.1.2, second paragraph. Withdrawal of the indefiniteness rejection. is thus specifically requested.

In view of the above amendments and remarks, applicants respectfully request a Notice of Allowance. If the Examiner believes a telephone conference would, advance the prosecution of. this application, the Examiner is invited to telephone the undersigned at the below-listed telephone number.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Janet I. Cord", is written over a horizontal line.

Janet I. Cord

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